

REMARKS

Claims 1-21, 24-51 and 53-55 are pending in this application. By this Amendment, claim 1 is amended. Claims 2-21, 27, 29-30, 33-36, 43 and 53-55 stand withdrawn. Claim 1 is generic to all species. No new matter is added.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; and (c) place the application in better form for appeal, should an appeal be necessary. Entry of the amendments is thus respectfully requested.

I. Personal/Telephonic Interviews

The courtesies extended to Applicants' representative by Examiner Graham during the personal interview held on April 6, 2004, and the telephonic interview conducted on April 29, 2004, are appreciated. Applicants appreciate the Examiner's agreement to enter the amendments to claim 1 provided herein. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

II. Information Disclosure Statement

An Information Disclosure Statement and Form PTO-1449 were filed on December 22, 2003. Applicants respectfully request acknowledgement of receipt and consideration of the references listed thereon.

III. Allowable Subject Matter

Applicants appreciate the indication of allowable subject matter in claims 41, 42 and 44-51. In view of the clarifying amendments to claim 1, Applicants submit that all pending claims are in condition for allowance for the reasons discussed below.

IV. Claim Rejections Under 35 U.S.C. §102(e)

Claims 1, 37-40, 44 and 52 are rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,315,371 to Wachi et al. (Wachi). As claim 52 was canceled in the Amendment filed on October 28, 2003, the rejection of that claim is moot. Applicants respectfully traverse the rejection of claims 1, 37-40 and 44.

Applicants assert that Wachi does not disclose each and every feature recited in the rejected claims, as clarified by amendment. For example, Wachi does not disclose a braking pressure control apparatus for controlling a pressure of a working fluid in a brake cylinder of a hydraulically operated brake in a hydraulically operated braking system for a vehicle, said braking pressure control apparatus comprising, *inter alia*, at least one of a value indicating a running environment of the vehicle external to the vehicle, and a value indicating a state of operation by a vehicle operator of a manually operable member provided on the vehicle, as recited in independent claim 1 as amended.

Rather, Wachi discloses a braking system including a first hydraulic pressure source having a pump and a second hydraulic pressure source having a master cylinder, wherein the braking system is normally operated in a first operating state in which the brake cylinder is operated with pressurized fluid from the first hydraulic pressure source, and is operated in a second operating state in the event of a failure of the first hydraulic pressure source (col. 6, lines 13-56). In the second operating state (failure of the first hydraulic pressure source), the brake cylinder is operated with the pressurized fluid delivered from the second hydraulic pressure source, col. 11, lines 16-25.

Thus, Wachi discloses switching from a first hydraulic pressure source to a second hydraulic pressure source in the event of a failure of the first hydraulic pressure source. Accordingly, Wachi does not disclose a switching control device operable to control a switching device on the basis of the running condition of the vehicle, wherein the running condition of the vehicle is represented by at least one of . . . a value indicating a running environment of the vehicle external to the vehicle and a value indicating a state of operation by a vehicle operator of a manually operable member provided on the vehicle. Therefore, Applicants respectfully request that the rejection of claims 1, 37-40, 44 and 52 under 35 U.S.C. §102(e) be withdrawn.

V. Withdrawn Claims

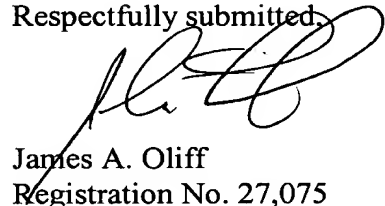
Additionally, as generic claim 1 is in condition for allowance, reconsideration and prompt allowance of withdrawn claims 2-21, 27, 29-30, 33-36 and 53-55 are earnestly solicited.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of pending claims 1-21, 24-51 and 53-55 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Form PTO-1449

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